

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

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In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹
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PROMESA

Title III

No. 17 BK 3283-LTS

Re: ECF No. 1027, 1030

(Jointly Administered)

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO

Debtor.
-----X

PROMESA

Title III

No. 17 BK 3283-LTS

**This Response relates only to the
Commonwealth and shall only be
filed in the lead Case No. 17 BK
3283-LTS.**

**RESPONSE OF THE COMMONWEALTH TO MOTION FOR RELIEF FROM
AUTOMATIC STAY FILED BY JOSUÉ ISMAEL SAAVEDRA VERA AND
MICHAEL ANGELO RIVERA OLIVERAS [ECF NO. 1027]**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth”) respectfully submits this response (the “Response”) to the *Motion for Relief from Automatic Stay* [ECF No. 1027]

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

(the “Motion”) filed by Josué Ismael Saavedra Vera and Michael Angelo Rivera Oliveras (collectively, “Movants”).²

RESPONSE

1. By the Motion, Movants request modification of the automatic stay set forth in Bankruptcy Code section 362 (the “Title III Stay”), made applicable to this Title III case by PROMESA section 301(a), to continue the proceeding pending before the Puerto Rico Court of First Instance in San Lorenzo (the “State Court”), captioned Michael Rivera Oliveras and Josué Ismael Saavedra Vera v. Garage Europa, et al., Case No. E2C12008-0187(201) (the “State Court Action”). The State Court Action seeks monetary damages under local tort law relating to a car accident involving Movants. The State Court Action was commenced on March 14, 2008, against Porsche Cars North America, Inc., Garage Europa, and the Puerto Rico Water and Sewer Authority. Subsequently, Garage Europa filed a third party complaint against the Puerto Rico Department of Transportation and Public Works (“DTOP”), an agency of the Commonwealth protected under the Title III Stay.

2. Prior to the commencement of the Commonwealth’s Title III case, the State Court Action was scheduled for trial in June 2017, which was stayed by the State Court in consideration of the Commonwealth’s Title III petition under PROMESA. Given the procedural stage of the State Court Action, the Commonwealth does not object to a partial modification of the Title III Stay to permit the State Court Action to proceed to judgment. However, the Commonwealth objects to any attempt by Movants to enforce any judgment entered by the State Court against the Commonwealth and DTOP and requests that the Court maintain the Title III

² The Financial Oversight and Management Board for Puerto Rico, as the Debtors’ representative pursuant to section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”), has authorized the Department of Justice to file this Objection on behalf of the Commonwealth.

Stay against the Movants with respect to the enforcement of any judgment and provisional remedies against the Commonwealth and DTOP obtained in the State Court Action.

3. The Commonwealth believes that the limited modification of the Title III Stay proposed herein is appropriate given that the completion of the trial is all that remains to resolve the State Court Action. Such relief will balance the harms between Movants and the Commonwealth by allowing the State Court Action to proceed without requiring the Commonwealth to expend significant time and resources.

4. Nothing contained in this Response should be construed as a waiver or modification of the Title III Stay to permit the prosecution against the Commonwealth and DTOP of any claim by anyone other than Movants as provided for herein, and the Commonwealth and DTOP reserve all rights, defenses, and protections with respect to any other motions for relief from stay or any other matters pending in the Commonwealth's Title III case. The Commonwealth and DTOP further reserve their rights with respect to any claim currently pending in the State Court Action or hereinafter asserted by Movants. As potential prepetition, unsecured creditors of the Commonwealth, Movants' claims are subject to the claim resolution process that will be undertaken in the Title III case. See In re Residential Capital, LLC, Case No. 12-12020 (MG), 2012 WL 3860586, at *4 (Bankr. S.D.N.Y. Aug. 8, 2012) ("Claims for damages against the Debtors are the usual grist for the bankruptcy claims allowance process and absent unusual circumstances the bankruptcy court remains the appropriate forum to resolve such claims.").

CONCLUSION

5. For the foregoing reasons, the Commonwealth requests that the Court grant a partial modification of the Title III Stay to allow the State Court Action to proceed to judgment; provided that the Title III Stay shall continue to apply in all other respects to the State Court Action, including as to execution of any judgment and provisional remedies.

Dated: August 28, 2017
San Juan, Puerto Rico

Respectfully submitted,

WANDA VÁZQUEZ GARCED
Secretary of Justice

/s/ Wandymar Burgos Vargas

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